

From: Frank Tobin
To: Microsoft ATR
Date: 1/23/02 6:00pm
Subject: Microsoft Settlement

I am writing to give my comments on the Microsoft antitrust settlement.

As Bachelor of Computer Science and an independent Open Source/Free Software software developer for the past 5 years, working on community, commercial, and internal products for the Unix/Linux platform, I am acutely aware of the problems caused by the illegal Microsoft monopoly. I believe that the proposed settlement does not fully address the goals it set out to accomplish, and allows for many loopholes to be exploited in the future.

First, I believe that many provisions of the proposed settlement do not carry the foresight needed to deal with easily foreseeable problems that will arise. To live in the information world, one needs to not only have a good grasp of the 'now', but also the issues of 'tomorrow'. The proposed settlement does a fair job of addressing many issues that one can point to today, but many of the terms and definitions are too strict, not capable of handling the rapid morphs in technology that are inevitable. The terms, definitions, and specific products listed in sections such as Section III: D need to be loosened, or else many loopholes will be exploited.

My second main concern is Microsoft's exclusionary licensing, which goes beyond those issues addressed in Section III.F and III.G. There is a large and growing number of Open Source and Free Software pieces of software being community-developed and freely available with source. However, licenses such as the Microsoft Windows Media Encoder 7.1 SDK EULA strictly prohibit bundling with Open Source and Free Software. This is an excellent example of Microsoft leveraging its monopoly not only against commercial competitors, but also *community* software projects. This is a clear example of the anti-consumer and anti-community behavior that Microsoft has repeatedly shown over the past several years, and not specifying provisions to prohibit is unacceptable.

I am also a co-cosigner of the open letter at <http://www.kegel.com/remedy/letter.html> , since I believe the issues that it brings up are also my concerns. In summary, it also concludes that the Proposed Final Judgment is not in the public interest, for the most important reasons I have already stated, and more.

Please do the right thing by amending the settlement so that it keeps tighter reins on Microsoft, and thus allowing the market to develop in a freer fashion, unchained from Microsoft. I am in favor of the changes recommended at:
<http://www.kegel.com/remedy/remedy2.html#fix>

To let the current settlement stand would be gross negligence for the health of the community and market.

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Frank Tobin

<http://www.neverending.org/~ftobin/>